1	JERRY S. BUSBY Nevada Bar #001107	
2	COOPER LEVENSON APRIL	
3		
4	Las Vegas, Nevada 89107 (702) 366-1125	
5	FAX: (702) 366-1857 jbusby@cooperlevenson.com	
6	Attorneys for Defendant	
7	SMITH'S FOOD & DRUG CENTERS, INC.	
	UNITED STATES DISTRICT COURT	
8		
9	DISTRICT	T OF NEVADA
10	ALEYDA DeMENA,	CASE NO.
11	Plaintiff,	
12	vs.	
13 14	SMITHS FOOD & DRUG CENTERS, INC. and DOES 1 through 100; And ROE CORPORATIONS 101 through 200	NOTICE OF REMOVAL
15	Defendant.	
	Defendant.	
16		
17	Defendant, SMITH'S FOOD & DRUG CENTERS, INC., (hereinafter referred to as	
18	"SMITH'S") hereby gives notice of its removal of Case No. A-12-658449-C from the Eighth	
19	Judicial District Court, Clark County, Nevada, to this Court. This Notice of Removal is filed	
20	pursuant to 28 U.S.C. §§ 1441(a) and 1446. As grounds for removal, SMITH'S states as follows:	
21	I.	
22	NOTICE OF REMOVAL IS TIMELY.	
23	1. On March 19, 2012, Plaintiff ALEYDA DeMENA (hereinafter "Plaintiff") filed this	
24	lawsuit, as an individual, against SMITH'S. Pursuant to 28. U.S.C. § 1446(a), a complete copy of the	
25	state court file, including the Complaint and process, is attached hereto as Exhibit "A".	
26	2. SMITH'S was served with process on March 22, 2012. SMITH'S hereby reserves any	
27	and all rights to assert insufficiency of process and/or insufficiency of service or process as defenses	
28	to Plaintiff's Complaint.	

CLAC 1787452.1

- 3. This Notice of Removal is timely field under 28 U.S.C. § 1446(b), which provides that a notice of removal shall be filed within thirty (30) days after receipt by a defendant, by service or otherwise, of the initial pleading.
- 4. No further proceedings have taken place in the District Court, Clark County, Nevada, as of the date of filing of this removal.

II.

DIVERSITY JURISDICTION EXISTS.

5. This is a civil action over which this Court has original jurisdiction pursuant to 28 U.S.C. §1332. This action may be removed pursuant to 28 U.S.C. § 1441, because the amount in controversy exceeds \$75,000, exclusive of interest and costs; the suit involves a controversy between citizens of different states; and none of the properly joined defendants is a citizen of Nevada.

A. The Amount in Controversy Requirement is Satisfied.

- 6. Plaintiff is claiming \$40,915.12 in past accident related medical expenses. See
 Plaintiff's Demand to Defendant dated February 1, 2012 attached hereto as Exhibit "B". In addition,
 Plaintiff's Complaint requests an extensive array of compensatory damages, including general
 damages, medical specials, lost wages, future damages, and attorney's fees and costs. (See
 Complaint \$17.)
- 7. Although Plaintiff's Complaint states only that she seeks damages "in excess of Ten Thousand Dollars (\$10,000)" (see Id.), there is no question that the damages Plaintiff demands from SMITH'S exceeds the \$75,000 jurisdictional requirement.

B. The Parties Are Diverse.

- 8. The diversity of citizenship requirement is satisfied. SMITH'S is informed and believes that Plaintiff ALEYDA DeMENA was at the time of her Complaint and is now a resident of the State of Nevada (See Complaint ¶ 1.)
- 9. SMITH'S was at the time of the filing of Plaintiff's Complaint and is now an Ohio Corporation with its principal place of business in the State of Utah.

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III.

REMOVAL TO THIS JURISDICTION IS PROPER.

- 10. Pursuant to 28 U.S.C. §§1332, 1441, and 1446, removal of the above-captioned state court action to this Court is appropriate.
- 11. Pursuant to 28 U.S.C. §1441(a), removal is made to this Court as the district and division embracing the place where the state action is pending 28 U.S.C. §108.
 - 12. SMITH'S reserves the right to amend or supplement this Notice of Removal.
- 13. SMITH'S reserves all defenses, including, without limitation, the defense of lack of personal jurisdiction.
 - 14. SMITH'S requests a trial by jury of all issues.
- 15. SMITH'S is providing Plaintiff, by and through her counsel, written notice of the filing of this Notice of Removal as required by 28 U.S.C. §1446(d). Further, Defendant is filing a copy of this Notice of Removal with the Clerk of the Eighth Judicial District Court, Clark County, Nevada, where the action is currently pending.

Dated this 16th_day of April, 2012.

COOPER LEVENSON APRIL NIEDELMAN & WAGENHEIM, P.A.

By /s/ Jerry S. Busby
Jerry S. Busby
Nevada Bar No. 001107
6060 Elton Avenue – Suite A
Las Vegas, Nevada 89107
Attorneys for Defendant
SMITH'S FOOD & DRUG CENTERS, INC.